Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Sprint Corp. Petition for Declaratory Ruling	)	
Regarding the Routing and Rating of Traffic	)	**CC Docket No. 01-92**
By ILECs	)	**DA 02-1740**

To the Commission:

Comments of:

THE OKLAHOMA RURAL TELEPHONE COMPANIES:

Atlas Telephone Company
Beggs Telephone Company
Bixby Telephone Company, Inc.
Canadian Valley Telephone Company
Carnegie Telephone Company
Central Oklahoma Telephone Company
Cherokee Telephone Company
Chickasaw Telephone Company
Cimarron Telephone Company
Cross Telephone Company
Dobson Telephone Company
Grand Telephone Company
Hinton Telephone Company
KanOkla Telephone Association
McLoud Telephone Company
Medicine Park Telephone Company
Oklahoma Telephone & Telegraph, Inc.
Oklahoma Western Telephone Company
Panhandle Telephone Cooperative, Inc.
Pinnacle Communications
Pioneer Telephone Cooperative, Inc.
Pottawatomie Telephone Company
Salina-Spavinaw Telephone Company
Santa Rosa Telephone Cooperative, Inc.
Shidler Telephone Company
South Central Telephone Association
Southwest Oklahoma Telephone Company
Valliant Telephone Company

The above-referenced Oklahoma Rural Telephone Companies (collectively "Oklahoma RTCs"), by and through their attorneys, submit these comments in response to the Federal Communications Commission's ("Commission") request for comments on the practices and issues raised in the above-referenced Sprint Petition for Declaratory Ruling ("Sprint Petition") and BellSouth's Opposition to Sprint's Petition. In particular, the Oklahoma RTCs submit these comments to the Commission in order to provide it with a view of the issues raised by Sprint and BellSouth from the perspective of a rural telephone company and even more importantly, from the perspective of an ILEC that does not own interexchange facilities connecting to an RBOC tandem.

In addressing Sprint's Petition, the Commission must remain cognizant of three guiding principles: (1) the requirement of the Telecommunications Act that interconnection must take place within the ILEC's network;[1] (2) the Commission's obligation under Section 251(g) of the Act to preserve the current interstate access charge regime; and (3) the anticompetitive effects Sprint's request will have on interexchange telecommunications. At a minimum, the Commission must not impose requirements, either through virtual NXXs or other creative routing schemes, that obligate ILECs to build facilities or make arrangements for facilities to interconnect to designated points outside the ILEC's network.

The Commission should not view Sprint's request and its representation of its arrangements with some independent local exchange carriers as ubiquitous. There are instances, such as in Oklahoma, where Sprint does not have arrangements with Oklahoma RTCs to assign telephone numbers in their switches. Oklahoma RTCs do not own

[1] 47 U.S.C. §251(c).

interexchange facilities connecting to the RBOC tandem with which Sprint or the interconnecting carrier has chosen to connect. In fact, the Oklahoma RTCs are precluded from offering interexchange services by Oklahoma Corporation Commission orders.[2] Instead, the Oklahoma RTCs are Access Providers and provide their access to providers of interexchange services either through intraLATA toll dialing parity rules or, where no carrier has requested the Oklahoma RTC to implement equal access in their service area, through Southwestern Bell Telephone Company ("SWBT") as the exclusive intraLATA toll provider. Accordingly, the Oklahoma RTCs do not have facilities connecting to the RBOC tandem serving the area but instead connect to SWBT's interexchange facilities at a designated point within the RTC's authorized service area. Such facilities are not shared with SWBT nor may the RTCs deliver local telecommunications traffic over such facilities. Therefore, Sprint does not have arrangements with Oklahoma RTCs to assign NXXs to their switches and route traffic to SWBT's tandem office.

Sprint must either connect directly with the Oklahoma RTC's facilities or arrange for two-way facilities from another carrier to connect directly with the Oklahoma RTC's facilities. Because Sprint has not chosen either alternative, its routing request should not be mandated in an Oklahoma RTC service area without Sprint either connecting directly to the Oklahoma RTC's facilities or making arrangements with another carrier to connect two-way facilities directly to the facilities of the Oklahoma RTC in its service area. Because of the Act's requirement that interconnection take place within the LECs' network, the ILEC must not be made responsible for the delivery of telecommunications

[2] *See*, e.g., Oklahoma Corporation Commission Order No. 399040 issued in Cause Nos. PUD 95117/119; Order No. 455901 issued in Cause No. PUD 98-263; and Order No. 357147 issued in Consolidated Cause Nos. PUD 899, PUD 975 and PUD 974.

traffic to a point of interconnection that the CMRS Carrier unilaterally chooses to locate outside the ILEC networks via creative routing schemes and virtual NXXs.

The Commission should reaffirm its previous orders that the services requested by Sprint are not necessary to effectuate interconnection. In *TSR Wireless v. US West* and *Mountain Communications, Inc. v. Qwest Communications International, Inc.*, the Commission properly defined the functionality of the services requested by Sprint as wide area calling services.[3] Further, the Commission was correct in concluding that such wide area calling services are not necessary for interconnection.[4] The Commission has recognized that while it may be authorized to establish local calling areas of CMRS Carriers for reciprocal compensation purposes, state Commissions have the sole authority to define local calling scopes for wireline carriers.[5] Simply because Sprint or other carriers choose to interconnect at an RBOC tandem office does not alter the calling scope of ILEC end users where calls to the CMRS Carrier's network may originate. In such instances the Commission has concluded that if it is a toll call to route calls to the interconnection point selected by Sprint or another carrier, the toll provider, or ILEC acting as the toll provider, may charge the end user for such toll calls.[6] Moreover, the Commission has found that, although not required to do so, the CMRS Carrier and the toll provider may enter into wide area calling or reverse billing arrangements to make it appear to end users that they have made a local call rather than a toll call. In such

[3] See, e.g.; *TSR Wireless, LLC v. US West Communications, Inc.*("*TSR*"), File Nos. E-98-13, E-98-15, E-98-16, E-98-17, E-98-18, Memorandum Opinion and Order, FCC 00-194, rel. June 21, 2000, ¶2; *Mountain Communications, Inc. v. Qwest Communications International, Inc.* ("*Mountain*"), File NO. EB-00-MD-017, Order on Review, FCC 02-220, rel. July 25, 2002, ¶5.
[4] See, e.g.; *TSR* ¶30, *Mountain* ¶6.
[5] *In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, CC Docket No. 96-98, *Interconnection between Local Exchange Carriers and Commercial Mobile Radio Service Providers*, CC Docket No. 95-185, First Report and Order, FCC 96-325, rel. August 8, 1996 ("Local Competition Order")
[6] See, e.g.; *TSR* ¶31; *Mountain* ¶6.

instances, the Commission has repeatedly held that the toll provider is entitled to compensation for such services.[7] Just as in *TSR* and *Mountain*, Sprint seeks to assign telephone numbers to a switch where it is a toll call to reach the actual point of interconnection. The routing instructions requested by Sprint are simply a means to avoid the appearance of a toll call to the end user and the imposition of charges for reverse toll billing and wide area calling arrangements. Therefore, the routing services requested by Sprint are indistinguishable from the issues in *TSR* and *Mountain* and, as such, the Commission should deny Sprint's request and follow prior orders.

LECs are not obligated to provide "virtual" NXXs as part of their obligation to provide nondiscriminatory access to telephone numbers. Telephone numbers are assigned by a neutral third party administrator in accordance with the Commission's rules.[8] Assignment of telephone numbers requires either ownership of facilities or access to unbundled network elements. The Commission's rules permit a carrier to obtain telephone numbers if "the applicant is authorized to provide service in the area for which the numbering resources are being requested" and "the applicant is or will be capable of providing service within sixty (60) days of the numbering resources activation date."[9] The carrier must support its application with "documented proof" of these facts by providing NANPA with:

> Appropriate evidence (e.g. ***contracts for unbundled network elements***, network information showing that equipment has been purchased and is operational or will be operational, business plans, or interconnection agreements) that the facilities are in place or will be in place to provide

[7] *Id.*
[8] See; e.g., 47 C.F.R. §52.12.
[9] 47 C.F.R. §52.15(g)(2).

> service within 60 days of the numbering resources activation date.[10] (emphasis added)

Hence NANPA will not assign telephone numbers to a carrier unless the carrier either owns the switch or the carrier has access to unbundled network elements in the switch. In areas served by a rural telephone company exempt from the requirements of Section 251(c) of the Act, a carrier such as Sprint has no authority to assign telephone numbers to the switch of such carrier without their consent or without termination of the carrier's rural exemption pursuant to Section 251(f) of the Act. Therefore, in the course of deciding the issues presented by Sprint with respect to BellSouth, the Commission must not permit the assignment of telephone numbers to ILEC switches where, as in the case of the Oklahoma RTCs, such ILEC is exempt from the requirements to route and transmit telecommunications traffic to an interconnecting carrier and the carriers have not agreed to the assignment of telephone numbers to the ILEC switch under a wide area calling or reverse toll billing arrangement.

"Virtual" NXXs raise the unbundling requirements of section 251(c) of the Act. A "virtual" NXX involves the programming of an RTC switch to recognize the NXX and route calls to certain facilities for transmission to the CMRS carrier's location in a distant location. The function of routing and transmission of calls is one of the primary obligations under Section 251(c)(2). The Commission should clarify that until a rural telephone company receives a request for interconnection under section 251(c) of the Act and the state Commission terminates such company's rural exemption under section

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[10] *See Numbering Resource Optimization*, Report and Order and Further Notice of Proposed Rulemaking, 15 FCC Rcd 7574 (rel. Mar. 31, 2000) at ¶¶ 96-97.

251(f), the rural telephone company cannot be required to providc access to "virtual" NXXs.

The Commission must see through Sprint's arguments for "virtual" NXXs as disguised attempts to seek interconnection under Section 251(c) of the Telecommunications Act of 1996 ("Act") and to circumvent FCC rules. The Commission has recognized that virtual NXXs are not necessary for interconnection and that an ILEC is not required to offer a CMRS carrier local numbers to end offices that otherwise would necessitate the dialing of 1+ to route the call to Sprint's point of interconnection at a distant tandem office. Such an arrangement is not necessary to effectuate interconnection and that the LEC must be compensated for such a service.[11] In addition, such an arrangement places Sprint at a competitive advantage over other toll providers that may not avail themselves of a similar arrangement. Therefore, a virtual NXX arrangement such as that requested by Sprint is inconsistent with previous Commission orders and rules.

[11] See, e.g.; *Mountain* ¶5.

For the reasons stated above, the Commission should deny Sprint's request for a Declaratory Ruling and should specifically reject its proposal to implement virtual NXX arrangements. The Commission should reaffirm that such arrangements are not necessary to effectuate interconnection and that the ILEC may assess the end user toll charges for calls delivered to the distant tandem office or that the ILEC may, at its option, offer the CMRS Carrier wide area calling or reverse toll billing arrangements under which the ILEC receives compensation from the requesting carrier.

Respectfully submitted,

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